

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

Kevin Brathwaite,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 04-1542-GMS
	)	
Thomas Carroll, Warden, et al.,	)	Trial by Jury Demanded
	)	
Defendants.	)	

**STATE DEFENDANTS' MOTION TO DISMISS**

The State Defendants, David Holman, Anthony Rendina, Cathy Malay, Larry Savage, Marcello Rispoli, and Lise Merson by and through undersigned counsel, hereby move this Honorable Court to enter an order dismissing Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12 (b) (6) for failure to state a claim upon which relief can be granted. In support of their Motion, Defendants offer the Memorandum of Points and Authorities filed simultaneously herewith.

**STATE OF DELAWARE  
DEPARTMENT OF JUSTICE**

/s/ Ophelia M. Waters  
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DATE: April 18, 2006

**CERTIFICATE OF MAILING AND/OR DELIVERY**

The undersigned certifies that on April 18, 2006, she caused the attached *State Defendants' Motion to Dismiss* to be delivered to the following persons in the form and manner indicated:

**NAME AND ADDRESS OF RECIPIENT(S):**

Kevin C. Brathwaite  
SBI #315294  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977

**MANNER OF DELIVERY:**

- ☐ One true copy by facsimile transmission to each recipient
- ☒ Two true copies by first class mail, postage prepaid, to each recipient
- ☐ Two true copies by Federal Express
- ☐ Two true copies by hand delivery to each recipient

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